

1 JOHN C. CRUDEN
2 Assistant Attorney General
3 Environment and Natural Resources Division
4 United States Department of Justice
5 Steven Miskinis
6 Ragu-Jara Gregg
7 ENRD/Indian Resources Section
8 P.O. Box 7611
9 Ben Franklin Station
10 Washington, D.C. 20044-7611
11 Telephone: (202) 305-0262
12 Email: steven.miskinis@usdoj.gov
13 *Attorneys for Defendants Kevin Washburn and Sally Jewell*

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16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE DISTRICT OF ARIZONA**

18 A.D. and C. by CAROL COGHLAN
19 CARTER, their next friend;
20 S.H. and J.H., a married couple;
21 M.C. and K.C., a married couple;
22 for themselves and on behalf of a class of
23 similarly-situated individuals,
24 Plaintiffs,

25 vs.

26 KEVIN WASHBURN, in his official
27 capacity as Assistant Secretary of BUREAU
28 OF INDIAN AFFAIRS;
29 SALLY JEWELL, in her official capacity as
30 Secretary of Interior, U.S. DEPARTMENT
31 OF THE INTERIOR;
32 GREGORY A. McKAY, in his official
33 capacity as Director of ARIZONA
34 DEPARTMENT OF CHILD SAFETY,
35 Defendants.

36 No. CV-15-1259-PHX-NVW

37 **FEDERAL DEFENDANTS'**
38 **MOTION FOR EXCESS PAGES**

1 Federal Defendants Kevin Washburn, Assistant Secretary for Indian Affairs,
2 United States Department of the Interior¹, and Sally Jewell, Secretary of the Interior,
3 hereby move this Court for leave to file a combined motion and memorandum of thirty-
4 five (35) pages length, in excess of the seventeen page limit established by the Local
5 Rules. *See LRCiv. 7.2(e)(1)*. Counsel for all parties have been consulted with regard to
6 this motion and consent.

7 Good cause supports this motion. The seventeen page limit established by
8 LRCiv. 7.2(e)(1) does not suffice for a full and fair presentation of the legal issues raised
9 in the Federal Defendants' motion to dismiss. Plaintiffs' complaint brings five counts
10 against the Federal Defendants and raises numerous constitutional challenges to the
11 Indian Child Welfare Act, including due process, equal protection and First Amendment
12 challenges to various provisions of the statute. Moreover, Plaintiffs also bring a claim
13 under the Administrative Procedure Act challenging the Bureau of Indian Affairs'
14 Guidelines for State Courts and Agencies in Indian Child Custody Proceedings, 80 F.R.
15 10,146. Besides raising jurisdictional arguments like standing and lack of final agency
16 action, the Federal Defendants seek dismissal for failure to state a claim. The proposed
17 motion and memorandum have been stringently edited but we do not believe they can be
18 edited any further without prejudicing our presentation of the legal issues before the
19 Court.

20 Accordingly, the Federal Defendants respectfully request the Court permit filing
21 of the attached motion and memorandum in excess of the Local Rule page limits.
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27 ¹ Plaintiffs' case caption erroneously identifies Kevin Washburn as Assistant Secretary
28 of the Bureau of Indian Affairs.

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2 **RESPECTFULLY SUBMITTED** this sixteenth day of October, 2015 by:
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4

5 JOHN C. CRUDEN
6 Assistant Attorney General
7 Environment and Natural Resources Division
United States Department of Justice
8

9 /s/
10 Steve Miskinis
11 Indian Resources Section
12 Ragu-Jara Gregg
13 Law and Policy Section
14 Environment and Natural Resources Div.
15 United States Department of Justice
16 P.O. Box 7611
17 Ben Franklin Station
18 Washington, D.C. 20044-7611
19 Telephone: (202) 305-0262
20 Email: steven.miskinis@usdoj.gov
21 *Attorneys for Federal Defendants*
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2 **CERTIFICATE OF SERVICE**
3

4 I hereby certify that on October 16, 2015, I electronically transmitted the attached
5 document to the Clerk's Office using the CM/ECF System for filing and
6 transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:
7

8 MARK BRNOVICH
9 ATTORNEY GENERAL
10 Firm Bar No. 14000
11 John S. Johnson (016575)
12 Division Chief Counsel
13 1275 West Washington Street
14 Phoenix, Arizona 85007
15 Telephone: (602) 542-9948
16 e-mail: John.Johnson@azag.gov
17 *Attorney for Defendant Gregory A. McKay*

18 Clint Bolick (021684)
19 Aditya Dynar (031583)
20 Courtney Van Cott (031507)
21 Scharf-Norton Center for Constitutional Litigation at the
22 Goldwater Institute
23 500 East Coronado Road
24 Phoenix, Arizona 85004
25 (602) 462-5000
26 e-mail: litigation@goldwaterinstitute.org

27 Michael W. Kirk (*admitted pro hac vice*)
28 Brian W. Barnes (*admitted pro hac vice*)
1 Harold S. Reeves (*admitted pro hac vice*)
2 Cooper & Kirk, PLLC
3 1523 New Hampshire Avenue, N.W.
4 Washington, D. C. 20036
5 (202) 220-9600
6 (202) 220-9601 (fax)
7 *Attorneys for Plaintiffs*

1 s/
2 Steve Miskinis
3 U.S. Department of Justice
4 ENRD/Indian Resources Section/
5 P.O. Box 7611
6 Ben Franklin Station
7 Washington, D.C. 20044-7611
8 Telephone: (202) 305-0262
9 Email: steven.miskinis@usdoj.gov
10 *Attorneys for Federal Defendants*

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

A.D. and C. by CAROL COGHLAN
CARTER, their next friend;
S.H. and J.H., a married couple;
M.C. and K.C., a married couple;
for themselves and on behalf of a class of
similarly-situated individuals,

No. 2:15-CV-01259- PHX-NVW

[PROPOSED] ORDER

Plaintiffs.

v.

KEVIN WASHBURN, in his official capacity as Assistant Secretary of BUREAU OF INDIAN AFFAIRS; SALLY JEWELL, in her official capacity as Secretary of Interior, U.S. DEPARTMENT OF THE INTERIOR; GREGORY A. MCKAY, in his official capacity as Director of the ARIZONA DEPARTMART OF CHILD SAFETY.

Defendants.

The Court having considered the Federal Defendants' motion for excess pages and good cause appearing,

IT IS ORDERED that the federal defendants may file a motion to dismiss with attached memorandum of thirty-five (35) pages length.